

All redacted information
exempt under b(1) and/or
b(3) except where
otherwise noted.

~~TOP SECRET//COMINT//NOFORN~~

FILED
KAREN E. SUTTON, CLERK

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

U.S. Foreign Intelligence
Surveillance Court

WASHINGTON, D.C.

Docket Number: PR/TT

APPLICATION FOR PEN REGISTERS AND TRAP AND TRACE DEVICES FOR
FOREIGN INTELLIGENCE PURPOSES

The United States of America, through the Attorney General, hereby applies to this Court, pursuant to the Foreign Intelligence Surveillance Act of 1978 (the Act), Title 50, United States Code (U.S.C.), §§ 1801-1811, 1841-1846, as amended by the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" (USA PATRIOT ACT), Public Law 107-56, and by Public Law 107-108, for an order authorizing the installation and use of pen register and trap and trace devices to protect against international terrorism in investigations concerning:

~~TOP SECRET//COMINT//NOFORN~~

Classified by: The President of the United States

Reason: 1.4(c)

~~Declassify only upon the determination of the
President.~~

~~TOP SECRET//COMINT//NOFORN~~

[REDACTED]
[REDACTED] which are being conducted by the
Federal Bureau of Investigation (FBI) under guidelines the
Attorney General has approved pursuant to Executive Order No.
12,333. ~~(S)~~

As set forth in the declaration of Michael V. Hayden,
Director, National Security Agency (NSA), which is annexed as
Attachment A, the objective of the surveillance authority
requested in this Application is to enable the NSA to discover [REDACTED]

[REDACTED]
[REDACTED] and to disseminate
such information to the FBI and other elements of the United
States Intelligence Community. The authority requested in this
Application will allow the NSA to collect addressing and routing
information (or "meta data")¹ regarding certain electronic mail

¹ "Meta data," as used in this Application, is the
information appearing on the "to," "from," "cc," and "bcc" lines
of a standard e-mail, [REDACTED]

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

(e-mail) [REDACTED]

[REDACTED] from [REDACTED] and then to place such information in an archive against which "queries" will be run to identify [REDACTED] by looking for contacts with other individuals who are reasonably suspected to be [REDACTED] and to reveal communications links between such operatives. ~~(TS//SI//NF)~~

Specifically, the addressing and routing information will be stored in the data archive, and the NSA will query the archive using known e-mail addresses that meet a particular standard. That standard is that other investigation and analysis have revealed that, based on the factual and practical considerations of everyday life on which reasonable and prudent persons act, there are facts giving rise to a reasonable, articulable suspicion that the e-mail address is associated with [REDACTED].

[REDACTED] The resulting analytical product from the queries made to the data archive will be "leads" for the FBI and other elements of the United States Intelligence Community to follow to find suspected [REDACTED]

[REDACTED]

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

[REDACTED] disrupt their activities, and prevent future terrorist attacks on the United States. ~~(TS//SI//NF)~~

If authorized, of necessity this surveillance will result in the collection of meta data pertaining to [REDACTED] of electronic communications, including meta data pertaining to communications of United States persons located within the United States who are not the subject of any FBI investigation. The NSA has determined that such broad collection of information is necessary to develop a data archive that will enable the analysis the NSA needs to perform to find known operatives of [REDACTED] and to identify unknown [REDACTED] some of whom may be in communication with United States persons, and many of whose communications transit the U.S. Internet infrastructure. ~~(TS//SI//NF)~~

On [REDACTED] the Court was briefed on the pressing need for this information, the manner which the NSA would conduct this surveillance, and the legal issues related to this matter by, among others, the Attorney General, the Director of Central Intelligence, the Director of the FBI, the Director of the NSA, the Counsel to the President, the Assistant Attorney General for the Office of Legal Counsel, the Director of the Terrorist Threat Integration Center (TTIC), and the Counsel for Intelligence Policy. ~~(S)~~

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

1. The Act authorizes the Attorney General to approve applications for pen registers and trap and trace devices. The Attorney General's approval of this Application and finding that it satisfies the criteria and requirements for such applications is set forth below. (U)

2. The federal officer seeking to use the pen registers and trap and trace devices covered by this Application is Michael V. Hayden, Director of the NSA. Among other things, the NSA is responsible for collecting signals intelligence with respect to the activities of international terrorist groups and their agents, and disseminating intelligence product regarding such matters to the United States Intelligence Community, including the FBI. ~~(S//SI//NF)~~

3. Set forth below is the certification of the applicant - the Attorney General - that the information likely to be obtained from this pen register and trap and trace surveillance is relevant to ongoing investigations to protect against international terrorism that are not being conducted solely upon the basis of activities protected by the First Amendment to the Constitution. (U)

4. [REDACTED]

[REDACTED] are the subject of numerous FBI National

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

Security investigations being conducted under guidelines approved by the Attorney General pursuant to Executive Order No. 12,333. The FBI currently has over [REDACTED] open National Security Investigations targeting [REDACTED]
[REDACTED]

Those investigations are being conducted on the basis of activities of [REDACTED]

[REDACTED] and to the extent these subjects of investigation are United States persons, not solely on the basis of activities that are protected by the First Amendment to the Constitution. Certain facts regarding the activities of [REDACTED] [REDACTED] are discussed in the declaration of George J. Tenet, Director of Central Intelligence (DCI), which is annexed as Attachment B. (S)

5. This is the initial application for pen register and trap and trace surveillance of the facilities targeted in this Application. (S)

6. The facilities to which the requested pen register and trap and trace devices are to be attached or applied are as follows:

[REDACTED]

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



² 18 U.S.C. § 2510(8) provides: "'contents', when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication." (U)

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



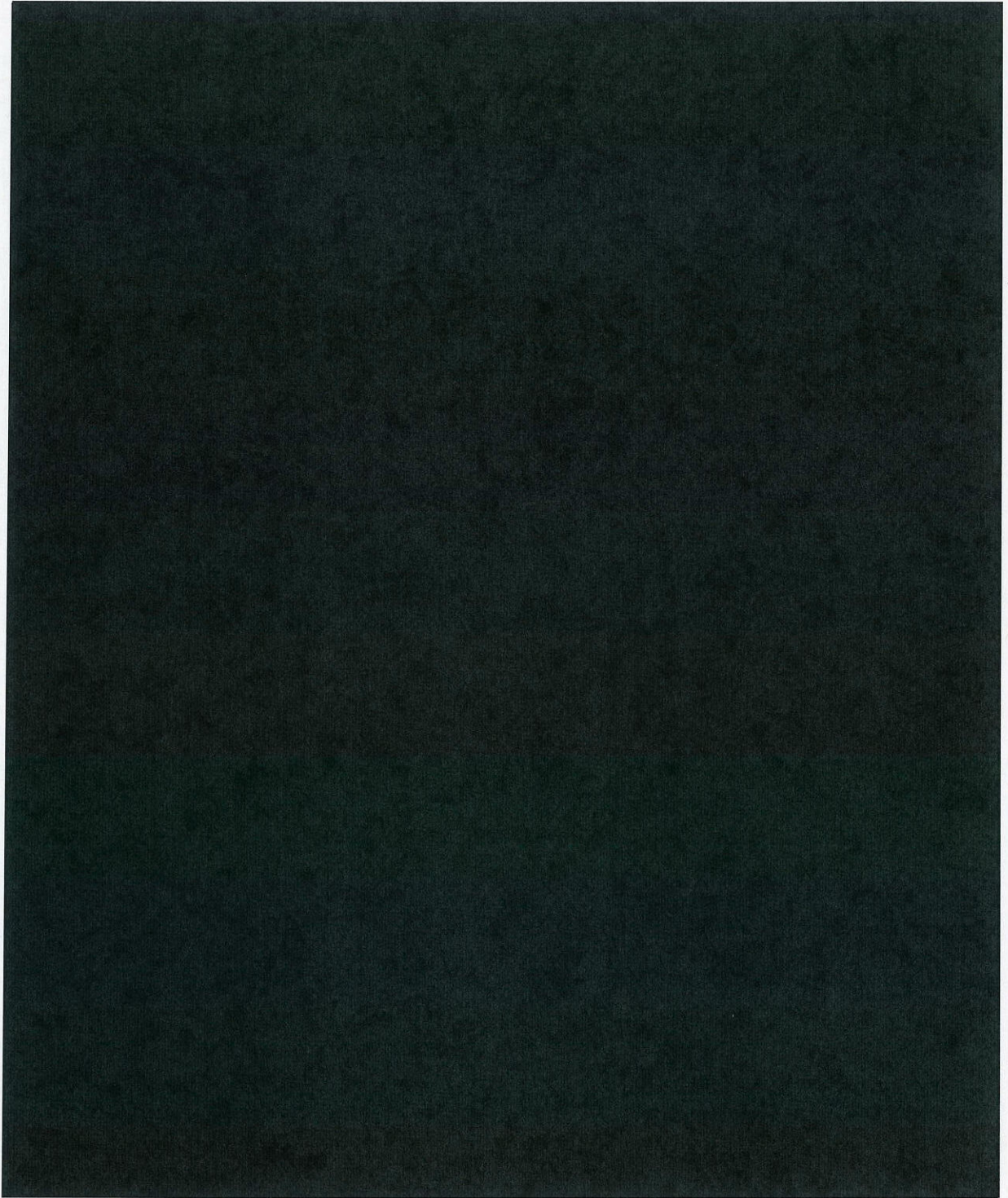
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



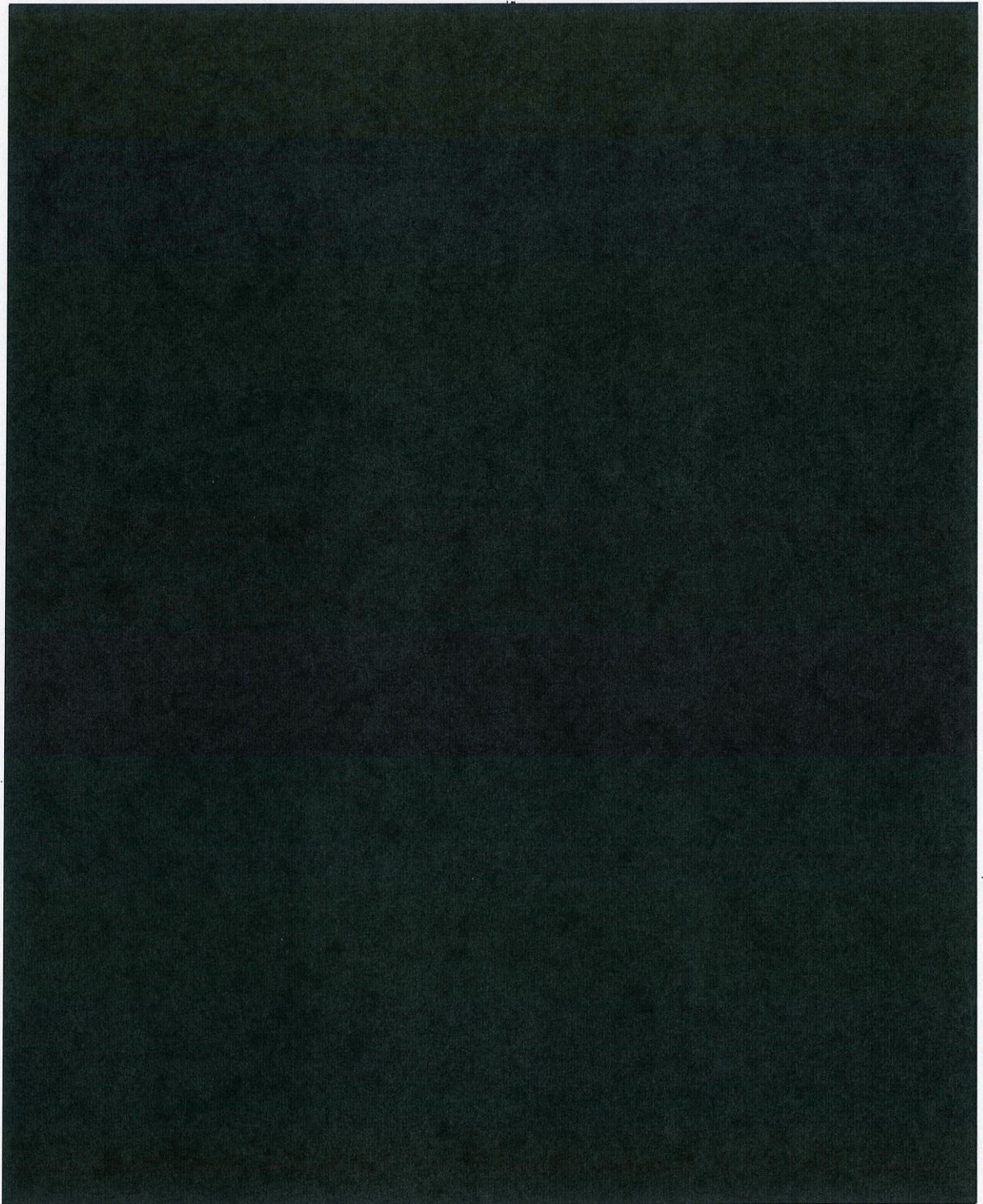
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



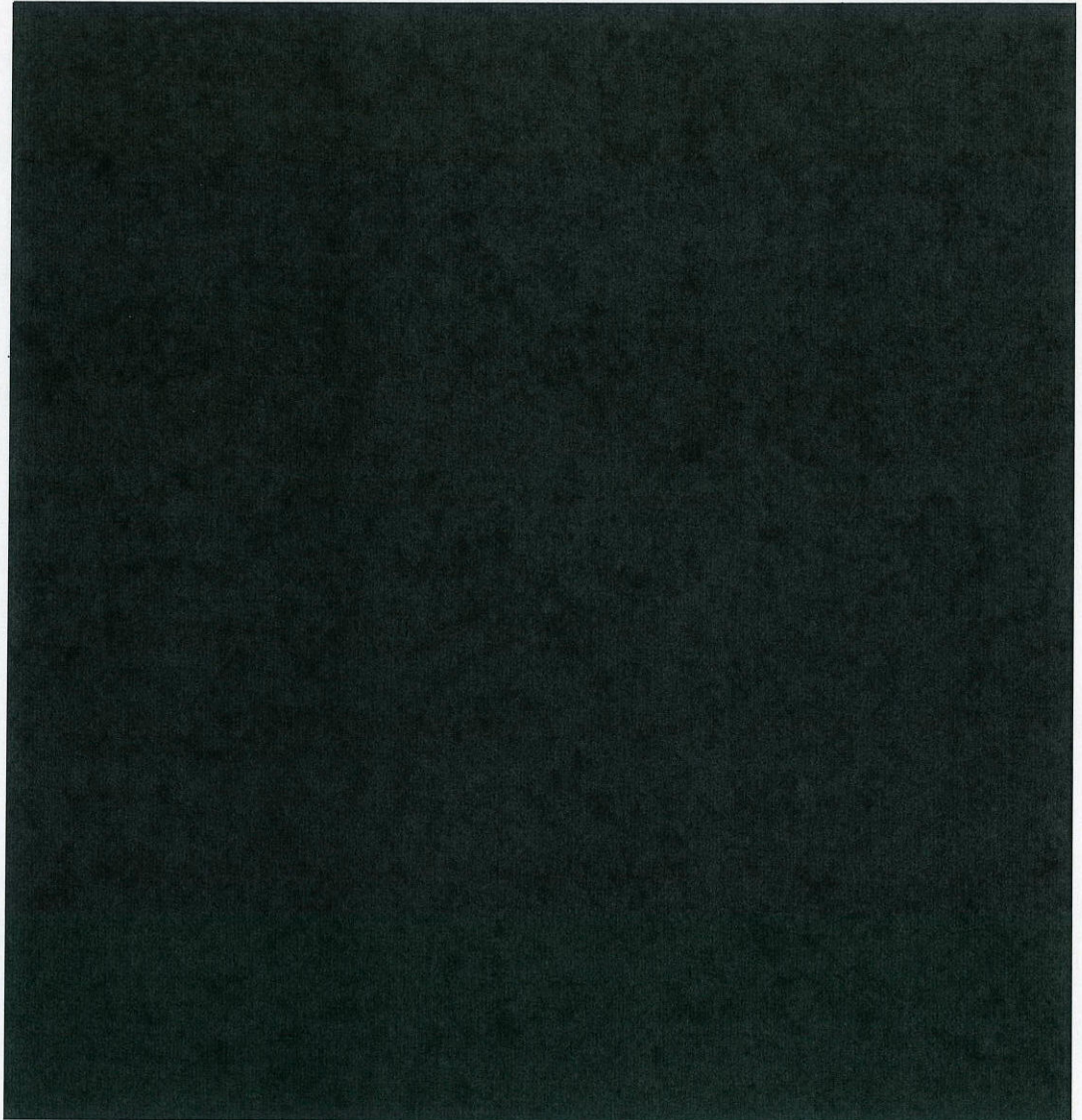
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

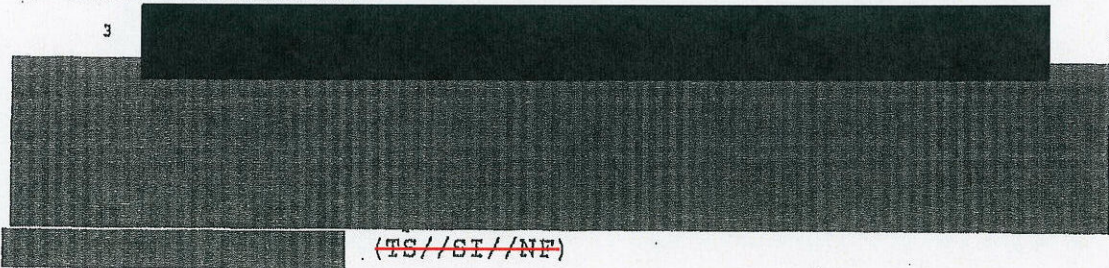


~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



3



~~(TS//SI//NF)~~

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~






~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



7. This request is for pen register and trap and trace authority within the United States. All of the collection activity described in paragraph 6 above will occur in the United States, and will collect communications that are: (1) between the United States and abroad; (2) between overseas locations; and (3) wholly within the United States. ~~(S)~~

8. With respect to the requested electronic communications surveillance authority, the applicant seeks Court orders authorizing the installation and use of pen register and trap and trace devices to collect all addressing and routing information reasonably likely to identify the sources or destinations of the electronic communications identified above 
 including the "to," "from," "cc," and "bcc" fields for those communications 



~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



As noted above, such addressing and routing information is referred to herein as "meta data." For the convenience of the Court, a fictitious example of e-mail meta data is set forth below:



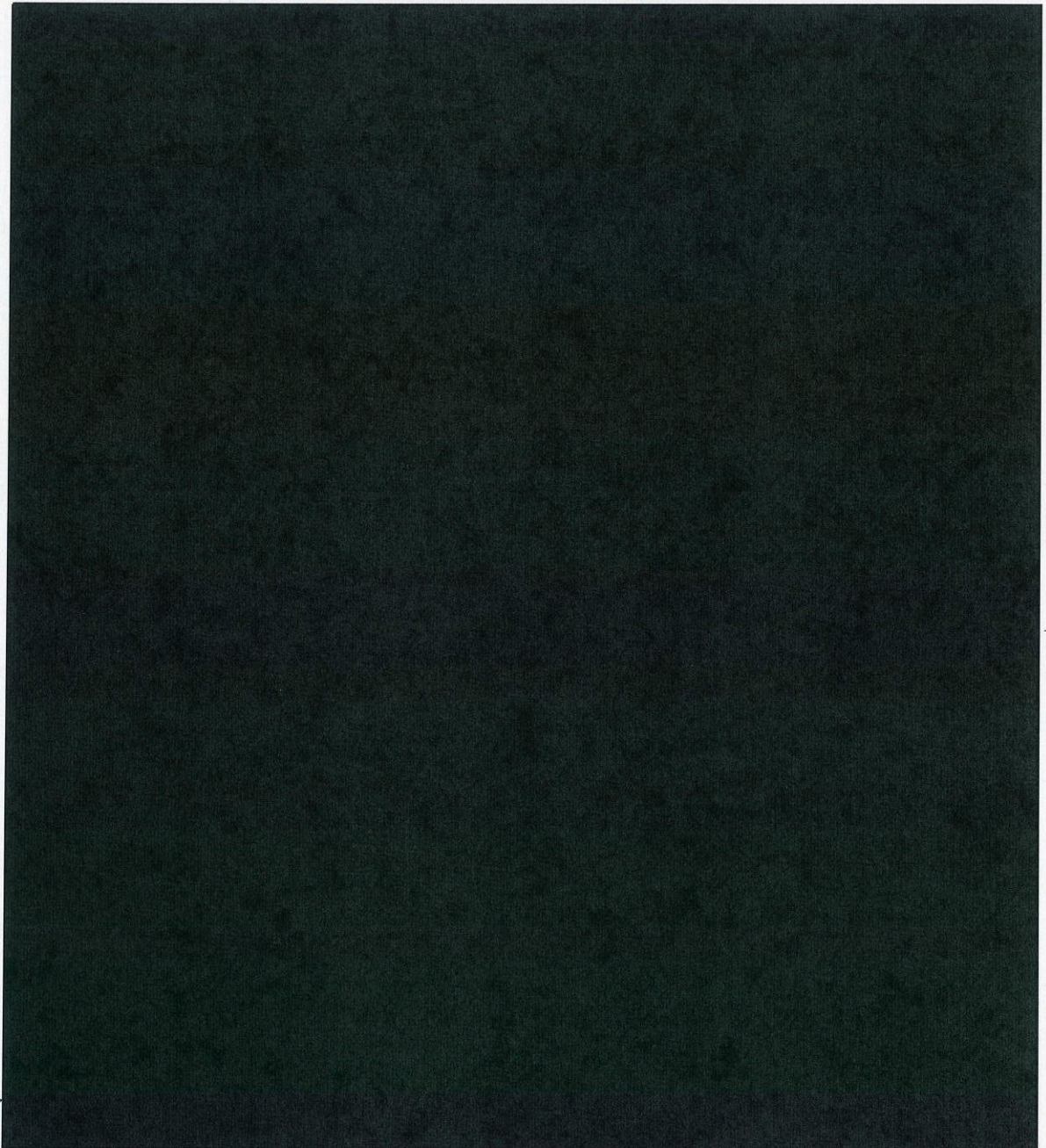
Data below the "bcc" line, including the subject line and the content of the message, are not meta data and will not be collected pursuant to the surveillance authority requested herein. ~~(S)~~

Additional Description of the Means by Which Surveillance Will Be Effected. (U)

If this Application is approved, the NSA will effect the pen register/trap and trace surveillance authority sought herein as described below. ~~(S)~~

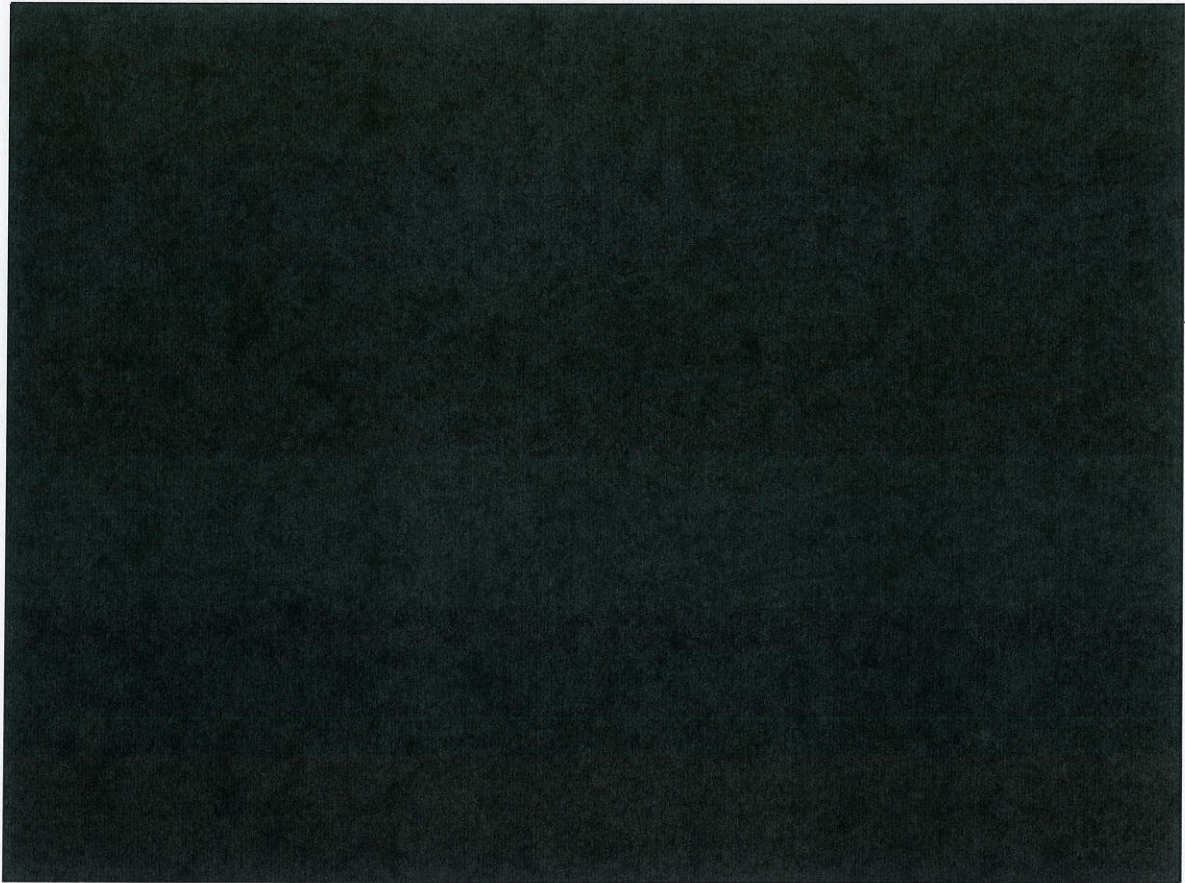
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



B. Administration of the Meta Data Archive. [REDACTED]



[REDACTED] The meta data will be stored and processed on a secure private network that the NSA exclusively will operate. The NSA will restrict access to the private network to two administrative login accounts used exclusively by personnel cleared especially for this program. The NSA private network will be accessible via select machines, accessible only

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

by cleared system administrators, using secure encrypted communications. The data will reside on dedicated servers and will not be commingled with data collected pursuant to other authorities. The datasets will be password protected and access to them will be restricted solely to individuals who are read into the program. When the datasets are accessed, the user's login, IP address, date and time, and retrieval request will be logged for auditing capability. ~~(TS//SI//NF)~~

C. Procedures for Making Queries to the Meta Data. The NSA will use a software interface to limit access to the meta data to specially cleared NSA analysts. The NSA currently plans to have ten analysts perform queries of the archive on a regular basis, although that number may vary in the future. Access to the archive will be controlled by user name and password by the cleared meta data archive system administrators. Analysts will be briefed by the NSA's Office of General Counsel concerning the authorization requested in this Application and the limited circumstances in which queries to the archive are permitted. Queries to the meta data archive will be performed when they meet the following requirement: based on the factual and practical considerations of everyday life on which reasonable and prudent persons act, there are facts giving rise to a reasonable articulable suspicion that a particular known e-mail address is

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

associated with [REDACTED]

Queries must be approved by one of seven people: the Program Manager, Counterterrorism Advanced Analysis; the Chief or Deputy Chief, Counterterrorism Advanced Analysis Division; or one of four Counterterrorism Advanced Analysis Shift Coordinators in the Analysis and Production Directorate of the Signals Intelligence Directorate. When the archive is accessed, the user's login, IP address, date and time, and retrieval request will be logged for auditing purposes. ~~(TS//SI//NF)~~

D. Minimization Procedures. The NSA will apply the existing (Attorney General approved) guidelines in United States Signals Intelligence Directive 18 - "USSID 18," which is annexed as Attachment D - to minimize the information reported concerning U.S. persons. Prior to disseminating any U.S. person information outside the NSA, the Chief of Customer Response in the NSA's Signals Intelligence Directorate at the NSA must determine that the information is related to counterterrorism information and is in fact necessary to understand the counterterrorism information or to assess its importance. The Director of the NSA will direct the NSA Inspector General and the NSA General Counsel to submit an initial report to him 45 days after the initiation of the collection to assess the efficacy of the management controls and to ensure that any dissemination of U.S. person information has

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

been accomplished in accordance with USSID 18 procedures.

~~(TS//SI//NF)~~

E. Meta Data that the NSA Will Collect

Pursuant to this Authority. meta data
will be extracted and collected:

(1) For e-mail communications, the devices will extract the
addresses contained in the "to," "from," "cc," and "bcc"
lines.

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~



F. Expected Analytical Product from the Queries. The expected analytical product from the queries is described at

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

length in the government's Memorandum of Law and Fact that is annexed as Attachment C to this Application. ~~(TS//SI//NF)~~

G. Maintenance of the Meta Data Archive. The meta data collected pursuant to the authority requested herein will be stored in a data archive on an NSA secure private network and will be kept online (that is, accessible for queries by cleared analysts) for 18 months. After 18 months, the meta data will be transferred to a tape system which is not accessible by any software tools or analysts to perform queries. If a cleared analyst is in need of data that is greater than 18 months old, the data in the tape library will be searchable only by a cleared administrator. ~~(TS//SI//NF)~~

H. Oversight. The following offices within the NSA will conduct oversight of the NSA's activities under this authority: Office of General Counsel, the Inspector General, and the Signals Intelligence Directorate Oversight and Compliance Office. The Director himself will, in coordination with the Attorney General, inform the leadership of the Congressional Intelligence Oversight Committees of the Court's approval of this collection activity. In addition, when and if the Government seeks a reauthorization from the Court for the pen registers and trap and trace devices in the Application, it will provide a report about the queries that have been made and the application of the reasonable

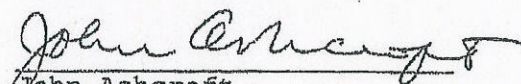
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

articulable suspicion standard for determining that queried addresses were terrorist related. ~~(S//SI//NF)~~

WHEREFORE, the United States submits that this Application satisfies the criteria and requirements of the Act, as amended, and therefore requests that this Court authorize the installation and use of the pen register and trap and trace devices described herein, and enter the proposed orders that accompany this Application. (U)

Respectfully submitted,



John Ashcroft
Attorney General of the United States
of America

James A. Baker
Counsel for Intelligence Policy
United States Department of Justice

~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

VERIFICATION

I declare under penalty of perjury that the facts set forth in the foregoing application are true and correct.

Executed pursuant to Title 28, United States Code, § 1746, on

[REDACTED]

(U)



Michael V. Hayden
Lieutenant General, USAF
Director, National Security Agency

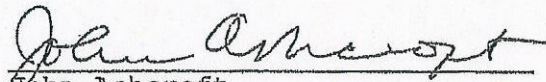
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

CERTIFICATION

I certify that the information likely to be obtained from the pen register and trap and trace devices requested in this Application regarding [REDACTED]

[REDACTED] is relevant to an ongoing investigation to protect against international terrorism that is not being conducted solely upon the basis of activities protected by the First Amendment to the Constitution. (S)



[REDACTED]
John Ashcroft
Attorney General of the United States
of America

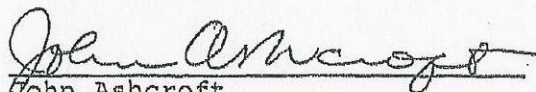
~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//COMINT//NOFORN~~

ATTORNEY GENERAL APPROVAL

I find that this Application regarding [REDACTED]
[REDACTED]

satisfies the criteria and requirements for such applications set forth in the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. §§ 1801-1811, 1841-1846, as amended, and hereby approve its filing with the Foreign Intelligence Surveillance Court. (S)



[REDACTED]
John Ashcroft
Attorney General of the United States
of America

~~TOP SECRET//COMINT//NOFORN~~